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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,340

03/12/2004

Dwight Allen Merriman

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EXAMINER

LANEAU, RONALD

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

09/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/798,340	<b>Applicant(s)</b> MERRIMAN ET AL.	
	<b>Examiner</b> RONALD LANEAU	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Amendment***

1. The response filed on 05/19/08 has been entered. Claims 1 and 2 remain pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Graber et al (US 5,812,769).

Graber et al was cited by Applicant in IDS received on 04/07/05.

As per claim 1, Graber discloses a method for advertising, comprising: contracting with a first affiliate web site to embed a first link to an advertisement server within content of said first web site (see abstract), wherein said first link is sent to a user node in response to a request for said content from said user node to said first affiliate web site (see fig. 1); receiving a first advertising request from said user node based upon said first link (col. 5, lines 55 to col. 6, line 22) ; selecting an advertisement, based upon stored information about said user node, to send to said user node in response to the first advertisement request (col. 5, lines 25-54).

As per claim 2, Graber discloses storing information associated with said first advertising request from said user node ; a method for advertising, comprising: contracting with a first affiliate web site to embed a first link to an advertisement server within content of said first web site (see abstract), wherein said first link is sent to a user node in response to a request for said

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content from said user node to said first affiliate web site (see fig. 1); receiving a first advertising request from said user node based upon said first link (col. 5, lines 55 to col. 6, line 22) ; selecting an advertisement, based upon stored information about said user node, to send to said user node in response to the first advertisement request (col. 5, lines 25-54).

### ***Response to Arguments***

4. Applicant argues that Graber does not disclose "embedding a link in content provided by a first affiliate web site to a user such that an advertising request is received from a user based on the embedded link.: Contrary to Applicant's arguments, fig. 1 of Graber disclose a plurality of links that are embedded to the user page wherein a user can click on the links to open the ad. In order for the link to be embedded on the home page, there must be some kinds of affiliation to the web site (see fig. 1). Applicant further argues that Graber has "no advertisement request from a user node based on a link embedded in the web page, and no advertisement selected in response to receiving such an advertising request from the user node. Contrary to Applicant's arguments, the Examiner realizes that the user station is equaled to the user node Applicant is claiming and when the embedded URL appears on the user home page, the user basically clicks (selects) on one of the URLs to view the actual ad. The Examiner respectfully disagrees with the Applicant that Graber does indeed teach a user selection based on stored information about a user node or station as claimed. Claims 1 and 2 are finally rejected.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on 7:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Laneau/  
Primary Examiner  
Art Unit 3714

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